

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

TERA A. McMILLIAN,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.: 2:07:cv-001-WKW
)	
ALABAMA DEPARTMENT OF)	
YOUTH SERVICES, <i>et. al.</i> ,)	
)	
Defendants.)	_____

**DEFENDANT ALABAMA DEPARTMENT OF YOUTH SERVICES' RESPONSE TO
PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE RELATED TO PRIOR
SEXUAL ACTS OR PREDISPOSITION OF THE PLAINTIFF**

COMES NOW the Alabama Department of Youth Services by and through the undersigned counsel, and submits a response to Plaintiff's *Motion in Limine* to Exclude Testimony and/or Other Evidence of Prior Sexual Acts. In response to Plaintiff's Motion, DYS states as follows:

1. DYS will not call Eugene Smith or Rogers Dortch to testify. DYS expects Michael Hardy to call them.
2. DYS will not introduce the transcript of the proceedings of Defendant Michael Hardy's administrative discharge review hearing conducted on May 8, 2006 and July 10, 2006 during its case. However, DYS reserves the right to use such transcript for purposes of impeachment.
3. DYS is not aware of testimony in the administrative proceedings in which the Plaintiff was said to have engaged in sex and DYS does not intend to offer evidence of Plaintiff's prior sexual activities in its case. DYS is aware of testimony that Plaintiff had acted in a sexually suggestive and/or inappropriate manner with her co-workers Dortch and Smith, and DYS expects Michael Hardy to offer such testimony to rebut the Plaintiff's claim that

she was offended by the alleged conduct by Michael Hardy.

Respectfully submitted this 21st day of July, 2008.

s/ T. Dudley Perry Jr.

T. Dudley Perry, Jr.
Bar Number: 3985-R67T
General Counsel
Attorney for the Defendant
Alabama Department of Youth Services
Post Office Box 66
Mt. Meigs, AL 36057
Telephone: (334) 215-3803
Fax: (334) 215-3872
E-Mail: dudley.perry@dys.alabama.gov

s/Sancha E. Teele

Sancha E. Teele
Deputy General Counsel
Bar Number: 0103-H71T
Attorney for the Defendant
Alabama Department of Youth Services
Post Office Box 66
Mt. Meigs, AL 36057
Telephone: 334-215-3803
Fax: (334) 215-3872
E-Mail: sancha.teele@dys.alabama.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of July, 2008, I electronically filed the foregoing, with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Jimmy Jacobs
[E-mail:jacobslawoffice@charter.net](mailto:jacobslawoffice@charter.net)
Attorney At Law
143 Eastern Boulevard
Montgomery, AL 36117
Tel: (334) 215-1788
Fax: (334) 215-1198

James Eldon Wilson
Attorney at Law
4625 Lomac Street
Montgomery, AL 36106

s/ T. Dudley Perry Jr.

T. Dudley Perry, Jr.